
By: **Senators Hughes and Gladden**
Introduced and read first time: January 31, 2003
Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments
Senate action: Adopted with floor amendments
Read second time: March 21, 2003

CHAPTER _____

1 AN ACT concerning

2 **Civil Damages - State Compensation for Erroneous Conviction and**
3 **Imprisonment - Evidentiary Standard and Eligibility**

4 FOR the purpose of requiring the Board of Public Works to grant certain economic
5 damages and authorizing the Board to grant certain noneconomic damages to
6 certain individuals who are erroneously convicted, sentenced, and confined
7 under a State law for crimes the individuals did not commit; authorizing the
8 Board of Public Works to provide certain counseling; requiring that the
9 eligibility of certain individuals for a certain grant be based on certain pardons
10 by the Governor under certain circumstances or based on a court's
11 determination by clear and convincing evidence that the convictions of the
12 individuals are in error and that the individuals ~~are innocent of~~ did not commit
13 the crime; defining certain terms; prohibiting the Board of Public Works from
14 paying any part of a certain grant to any individuals other than certain
15 individuals eligible to receive the grant under certain circumstances; altering a
16 certain statement in a pardon required to rebut a certain presumption; and
17 generally relating to damages for certain individuals erroneously convicted,
18 sentenced, and confined under State law.

19 BY repealing and reenacting, with amendments,
20 Article - Correctional Services
21 Section 7-601(c)
22 Annotated Code of Maryland
23 (1999 Volume and 2002 Supplement)

24 BY repealing and reenacting, with amendments,
25 Article - State Finance and Procurement

1 Section 10-501
 2 Annotated Code of Maryland
 3 (2001 Replacement Volume and 2002 Supplement)

4 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 5 MARYLAND, That the Laws of Maryland read as follows:

6 **Article - Correctional Services**

7 7-601.

8 (c) There is a presumption that the grantee of a pardon was lawfully and
 9 properly convicted of a crime against the State unless the order granting the pardon
 10 states that the grantee has been shown [conclusively] BY CLEAR AND CONVINCING
 11 EVIDENCE to have been convicted in error.

12 **Article - State Finance and Procurement**

13 10-501.

14 (a) (1) IN THIS SECTION THE FOLLOWING ~~TERMS~~ WORDS HAVE THE
 15 MEANINGS INDICATED.

16 (2) (I) "ECONOMIC DAMAGES" MEANS LOSS OF EARNINGS AND
 17 MEDICAL EXPENSES.

18 (II) "ECONOMIC DAMAGES" DOES NOT INCLUDE PUNITIVE
 19 DAMAGES.

20 (3) (I) "NONECONOMIC DAMAGES" MEANS PAIN, SUFFERING,
 21 INCONVENIENCE, PHYSICAL IMPAIRMENT, DISFIGUREMENT, LOSS OF CONSORTIUM,
 22 MENTAL ANGUISH, EMOTIONAL PAIN AND SUFFERING, LOSS OF SOCIETY,
 23 COMPANIONSHIP, COMFORT, PROTECTION, CARE, MARITAL CARE, PARENTAL CARE,
 24 FILIAL CARE, ATTENTION, ADVICE, COUNSEL, TRAINING, GUIDANCE, EDUCATION, OR
 25 OTHER NONPECUNIARY INJURY.

26 (II) "NONECONOMIC DAMAGES" DOES NOT INCLUDE PUNITIVE
 27 DAMAGES.

28 (B) (1) Subject to subsection [(b)] (C) of this section, the Board of Public
 29 Works [may] SHALL grant to an individual erroneously convicted, sentenced, and
 30 confined under State law for a crime the individual did not commit an amount
 31 commensurate with the [actual] ECONOMIC DAMAGES ~~AND NONECONOMIC damages~~
 32 sustained by the individual, AND MAY GRANT AN AMOUNT FOR NONECONOMIC
 33 DAMAGES SUSTAINED BY THE INDIVIDUAL, due to the confinement.

34 (2) In making a grant under paragraph (1) of this subsection, the Board
 35 of Public Works shall use money in the General Emergency Fund or money that the
 36 Governor provides in the annual budget.

1 (3) IN ADDITION TO A GRANT MADE UNDER PARAGRAPH (1) OF THIS
2 SUBSECTION, THE BOARD OF PUBLIC WORKS MAY PROVIDE FINANCIAL OR OTHER
3 APPROPRIATE COUNSELING FOR THE INDIVIDUAL.

4 [(b)] (C) An individual is eligible for a grant under subsection [(a)] (B) of this
5 section only if:

6 (1) the individual has received from the Governor a full pardon stating
7 that the individual's conviction has been shown [conclusively] BY CLEAR AND
8 CONVINCING EVIDENCE to be in error; OR

9 (2) A COURT HAS DETERMINED BY CLEAR AND CONVINCING EVIDENCE
10 THAT:

11 (I) THE INDIVIDUAL'S CONVICTION IS IN ERROR; AND

12 (II) THE INDIVIDUAL ~~IS INNOCENT OF~~ DID NOT COMMIT THE
13 CRIME.

14 [(c)] (D) The Board of Public Works may pay the grant determined under
15 subsection [(a)] (B) of this section in a lump sum or in installments.

16 [(d)] (E) (1) The Board of Public Works may not pay any part of a grant
17 made under this section to any individual other than the [pardoned] individual
18 DETERMINED TO BE ELIGIBLE UNDER SUBSECTION (C) OF THIS SECTION.

19 (2) (i) An individual may not pay any part of a grant received under
20 this section to another person for services rendered in connection with the collection
21 of the grant.

22 (ii) An obligation incurred in violation of this paragraph is void.

23 (iii) A payment made in violation of this paragraph shall be forfeited
24 to the State.

25 [(e)] (F) This section does not prohibit an individual from contracting for
26 services to:

27 (1) determine the individual's innocence;

28 (2) obtain a pardon; or

29 (3) obtain the individual's release from confinement.

30 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
31 October 1, 2003.

